

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

RICHARD WALKER,)
Plaintiff,)
v.) Case No. 3:20-cv-773
ALLIANCE OUTDOOR GROUP, INC.)
And ALLIANCE OUTDOORS)
PRODUCTS, INC., d/b/d X-STAND)
TREESTANDS,)
Defendants.)
- - - - -)

VIDEO DEPOSITION OF RICHARD WALKER

February 9, 2021
Richmond, Virginia

Reported by: DorothyJane Gatzek Parker

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1 Q Well, I mean, isn't that the place that
2 you, as a person that's purchasing these, are looking
3 to determine how to safely use the product?

4 MR. SPINELLI: Wait a minute. Same
5 objection. Calls for speculation, but go ahead and
6 answer if you can.

7 A Say that again.

8 BY MR. SUTTON:

9 Q Yes. As a, as a consumer, purchaser of
10 these products --

11 A Uh-huh.

12 Q -- don't you look at the instructions to
13 determine how to safely use the products?

14 A Well, safely use the product; okay. Yes.
15 I would say that.

16 Most people I would say look at it to know
17 how to use the product, which I assume would be
18 safely.

19 Q Okay. And isn't the instructions also the
20 place where the manufacturer puts in how to safely
21 maintain the product?

22 MR. SPINELLI: I'm going to put an
23 objection -- hold on -- I'm going to put an objection.
24 Again, calls for speculation. Go ahead and answer if
25 you can.

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1 MR. SPINELLI: Same objection. Same
2 objection. Also objecting to form. Go ahead and
3 answer if you can.

4 MR. SUTTON: We're in federal court, so
5 your objections are really just limited to form, so I
6 appreciate you just limit them on the form.

7 MR. SPINELLI: Sure.

8 BY MR. SUTTON:

9 Q So --

10 MR. SPINELLI: You're good.

11 BY MR. SUTTON:

12 Q In any event, back, back to my question.

13 So, sir, would you agree to me that it is
14 vital to follow the instructions of the manufacturer
15 when using a product such as a tree stand, which has
16 an inherent danger?

17 MR. SPINELLI: Objection to form.

18 A Vital --

19 MR. SPINELLI: Go ahead and answer.

20 A I'd say follow the instructions.

21 Vital? That's subjective. I don't know.

22 BY MR. SUTTON:

23 Q Okay. Would you agree to me, with me,
24 that it's important to follow the instructions of the
25 manufacturer to make sure that you safely use the

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1 A I -- once again; okay. Say the question
2 again.

3 BY MR. SUTTON:

4 Q As a consum- -- consumer --

5 A Yes.

6 Q -- the person that's purchasing these
7 products, don't you look and rely upon the
8 instructions to tell you how to safely maintain the
9 product?

10 A Of course.

11 Q Okay. That's where you'd expect them to
12 be; right?

13 A How to, how to, how to maintain it, you
14 said?

15 Q Right.

16 A Okay.

17 Q Okay. And you know that you have to
18 follow the instructions in order to make sure that
19 you're safely using the product; right?

20 A Uh-huh.

21 Q Is that a "yes"?

22 A I would -- oh, yes.

23 Q And, and that's common sense for you;
24 right?

25 That's where you would look; right?

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1 product such as a tree stand, which has an inherent
2 danger of falling?

3 MR. SPINELLI: Same objection. Go ahead
4 and answer.

5 A It's almost the same question over and
6 over, so I'd say -- I guess, yes. Yes. Okay. I'll
7 say yes.

8 BY MR. SUTTON:

9 Q And the reason it's a different question
10 is because you objected to the word "vital," which it
11 sounded like you had a little problem with
12 understanding that --

13 A Well, no.

14 Q -- so I, I removed the question, the, the
15 word --

16 A Oh.

17 Q -- "vital" --

18 A Okay.

19 Q -- okay?

20 Would you agree with me that it's
21 important to read the instructions to make sure that
22 you are properly maintaining the product correctly?

23 MR. SPINELLI: Same objection. Go ahead
24 and answer.

25 A I'll give a yes on that.

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1 And, and, the bottom piece. It only went down you
2 know, that far maybe. I don't know.

3 Q Four or five inches?

4 A Eight inches maybe. I don't know.

5 Q But in any event, having the harness
6 attached at that point in time during your climb and
7 at all times --

8 A Uh-huh.

9 Q -- also prevents you from --

10 A Yeah.

11 Q -- a fall if that, when that happened?

12 A If I'd afell out of the other part, yes.

13 Q Okay.

14 A It would have helped.

15 Q Okay. And you knew as a user of these, of
16 these products, that it was essential for you to wear
17 your harness and have it attached to the tree at all
18 times?

19 A Yes.

20 MR. SPINELLI: Objection to form.

21 A And...

22 BY MR. SUTTON:

23 Q Go ahead and answer. Answer the, answer
24 the question that's been asked.

25 A Yes.

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1 the time the incident occurred, wouldn't you agree
2 with me that you would not have fallen to the ground?

3 A Yes.

4 Q Okay.

5 A However, a reasonable person would think
6 that for 30 seconds of undoing it and putting it above
7 the object so that I could pull my stand up to the
8 object, a reasonable person would think for 30 seconds
9 this, this thing that can hold 300 pounds, would hold
10 a 160-pound man with his gun or bow.

11 Q The second question, if you did -- if that
12 occurred, and you did fall, the platform itself was
13 still at height, was it not?

14 You could have gotten back on the platform
15 is all I'm saying?

16 A Yeah, if the platform didn't break.

17 Q Well, wasn't the platform that -- strap
18 that broke, it was the climbing part strap that broke;
19 right?

20 A Right.

21 Q The platform was still attached to the
22 tree; right?

23 A No. It all came down together. Don't you
24 see the pictures? It all came down with me.

25 Q The, the platform and the strap all came

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1 Q Okay. Now, you fell in this particular
2 case when your harness was not attached to the tree;
3 right?

4 A Correct.

5 Q Would you agree with me that if you had
6 had your harness attached to the tree, you would have,
7 not have fallen to the ground?

8 MR. SPINELLI: Don't answer yet.

9 Objection. Object to form. Go ahead and
10 answer.

11 THE DEPONENT: Should I tell the whole
12 thing how, you know? I wanted to get --

13 MR. SPINELLI: Just, just an- --

14 THE DEPONENT: -- to a certain level.

15 MR. SPINELLI: Answer the question, and
16 then I think maybe we'll take a, maybe a break.

17 MR. SUTTON: We can take a, we can take a
18 break while --

19 MR. SPINELLI: Let's close this -- yeah.

20 Let's close this question out. I gotcha.

21 BY MR. SUTTON:

22 Q So, my question is specific.

23 So, question. Counsel's objected to
24 form -- okay -- but my question is specific, which is,
25 if you were attached to the tree with your harness at

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1 down together -- I mean, and the upper portion all
2 came down together; right?

3 A Yeah. As I recall, those pictures, which
4 I think you have copies of, shows that stand right
5 near the bottom kind of cocked over and broken.

6 You got to realize, once it broke, I don't
7 know what happened. I know I woke up on the ground on
8 a bunch of roots, big roots, checked myself. Knew I
9 was hurt bad, called my friend, and then signaled with
10 my whistle.

11 Q We're going to get to that, to the
12 accident, you know, in a bit, after our break; but,
13 but again, all of the instructions that you read --

14 A Uh-huh.

15 Q -- and the DVD that you watched --

16 A Uh-huh.

17 Q -- all told you never to detach your
18 tether, your harness from the tree at any time; true?

19 A Well, I have on pine trees. I had --

20 Q That's not what, what you've done. I'm
21 asking what --

22 A Uh-huh.

23 Q -- those instructions --

24 A Yes. You --

25 Q -- all these instructions, you watch all

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1 Q And you think they were in there?
 2 A Pardon me?
 3 Q Do you think that the ratchet straps were
 4 in there?
 5 A Oh, I know they were.
 6 Q And you were wearing your harness; is that
 7 right?
 8 A Correct.
 9 Q When did you put on your harness?
 10 A At the truck. It was easier to carry
 11 everything that way.
 12 Now, I didn't have my bow with me.
 13 Q What happened to your bow?
 14 A I was going to go back and get it.
 15 Q You were going to climb up in the tree
 16 stand first, and then climb back down --
 17 A Yeah. I was going to go up there.
 18 Q Okay.
 19 A Make sure I got my shooting lanes, come
 20 back down, go out, and get my equipment.
 21 At that time of year, you know, nothing
 22 moves until, like, you know, 6, 7:00, I guess.
 23 Q And you attached both the upper and lower
 24 portion in the same way you just showed us; right?
 25 A Yes. Yes, sir.

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1 logging trail. I kind of looked over there, always
 2 looking for tracks, but, you know, it's not a good
 3 place --
 4 Q Okay.
 5 A And I -- well, we'll wait on that.
 6 Q Anything else?
 7 A No, sir.
 8 Q Okay. Then you hooked the stand to the
 9 tree; is that right?
 10 A Yes.
 11 Q And you hooked your harness to the tree;
 12 is that right?
 13 A Yes.
 14 Q And you got in, into the stand; right?
 15 A Correct.
 16 Q And then you began to climb?
 17 A Right.
 18 Q Tell me about that.
 19 How high did you climb?
 20 A Oh, about 12 feet, 11 to 12 feet.
 21 Now, I have to climb slow, do you
 22 understand?
 23 I don't have complete bend to my knee, so
 24 my pull-up is very small compared to the regular
 25 person.

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1 Q Did you atta- -- attach your harness?
 2 A Now -- pardon me?
 3 Q Did you attach your harness?
 4 A Yes. At the, at the base, yes.
 5 I realize it wasn't just one, two, three
 6 steps like this. I fooled around. I found the tree.
 7 I went over and checked the trail. I come back, you
 8 know. It, it wasn't like I did this, this, and this,
 9 and...
 10 Q Fair enough.
 11 What else did you do at the scene, then,
 12 before you put the stand on the tree?
 13 A Well, I went over to make sure there was
 14 fresh tracks on the trail.
 15 Q Okay. Anything else?
 16 A -- well, there is a, a creek between me
 17 and the trail. There's a creek. I crossed the creek,
 18 and went over there.
 19 Q Okay. Anything else that you did at the
 20 scene before you put the stand in the tree?
 21 A Pard- -- pardon me?
 22 Q Anything else you did at the scene before
 23 you put the, the stand in the tree?
 24 A Just walked around. And there was a --
 25 there's an old wood -- see, I was right off an old

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1 Q Because of the, of your disability, you --
 2 A Well, you know, you could probably lift
 3 your knees up like this (indicating). I can lift them
 4 up like this (indicating) because this one restricts
 5 me.
 6 Q Okay. Because your disability restricts
 7 you?
 8 A Right. Correct.
 9 Q Okay.
 10 A So I have to take, I guess you call it
 11 steps. I have to take smaller steps to go up the
 12 tree.
 13 Q So you climbed up to about 12 feet.
 14 Any problems climbing up to 12 feet?
 15 A Yes.
 16 Q What problems?
 17 A There was a big vine there.
 18 Q Couldn't you see the vine before you
 19 selected the tree?
 20 A Yes.
 21 Q And you elected to use the, the tree
 22 anyway?
 23 A Correct.
 24 Q Why is that?
 25 A I thought I could remove the vine.

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1 Q So eventually you climb up to the, to the
2 vine; right?

3 A Yes, sir.

4 Q And did you try to remove the vine?

5 A Yes; but, you know, I'm not going to do a
6 dance up there.

7 I tried, I tried left-handed. I tried to
8 pull it loose. I tried to pull it from down. I tried
9 to pull it from up, but it was all the way to the
10 ground, and -- which you can see there.

11 And I thought, Well, this could be good
12 enough. I'll just take and hook my strap up here,
13 pull my stand up to the base of the vine, and it
14 looked pretty good.

15 Q Okay. So the vine went all the way from
16 where you were, all the way down to the ground?

17 A No. The vine came from another tree. It
18 came over. It was growth by growth, it was on this
19 tree; came down just a little ways, then went out like
20 this (indicating) into the ground, out to one side
21 there, which, if you will look at the, if you look at
22 the, the curvature, there's part of it right there.

23 Where's the other part? It's part of it
24 there.

25 Here's where it was hooked, up in this

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1 A Because -- well, that don't go up high
2 enough.

3 MR. SPINELLI: Okay. He'll, he'll ask the
4 question, and you can answer it.

5 A It was a pretty good, big thing. It came
6 down with me.

7 BY MR. SUTTON:

8 Q And do you believe what we see in Exhibit
9 17 is the vine?

10 A Part of the vine.

11 Q Okay. Now, the vine did not come down on
12 the trunk of the tree you were climbing, so you did
13 not have to climb over the top of it; is that right?

14 A I couldn't break it loose. I was going
15 to, I was going to break it loose, you know, like
16 this, and just keep climbing.

17 Q Is there any reason why you didn't bring
18 this height, or hunt from the height you were at?

19 A That's what I decided. My stand was just,
20 my stand was maybe this far below the vine, you know,
21 as far as you, your legs.

22 Q Okay. So 3 feet --

23 A What I was going to do.

24 Q -- below the vine?

25 A What I was going to do was hook it here.

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1 area here.

2 Q Okay. Hold on a second.

3 A See that there.

4 Q You're being helpful. Hold on. Before
5 you go on, we've got to show people, so we can follow
6 along --

7 A Oh, I'm sorry.

8 Q -- okay?

9 So you just showed me Exhibit 14, and you
10 said it was hooked up --

11 A Some -- around here.

12 Q -- right up here, but there's a knot
13 there.

14 Do you see that?

15 A Right. That might be part of it. I don't
16 know.

17 Q Okay. What appears to be a knot on the
18 left side of the tree trunk on this photograph, little
19 bit below where the tree behind it kind of crosses
20 over; right?

21 Sir, is that right?

22 A Oh, yeah. There, there's an object there.
23 I can see that. That could be part of it. I don't
24 know.

25 Q Okay.

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1 The vine's over here. I was going to bring my stand
2 up even with the base of the vine, and sit there --
3 well, when I come back, but I wanted to see what --
4 see, because straight across is the creek there.

5 Q And the purpose of you climbing at this
6 time was just to see that your shooting lanes were
7 open; right?

8 A Correct, because I hadn't been up that
9 tree. It's always good to see what your shooting lane
10 is.

11 Q Okay. So what happened next when you got
12 up there?

13 You tried to take the vine down, and you
14 couldn't do it?

15 A And I wasn't going to, I wasn't going to,
16 as I say, dance on the sta- -- I wasn't going to jump
17 around trying to pull the thing loose.

18 I undid my belt. It was right here, stood
19 up to put up, and that's the last thing I remember
20 until I was on the ground.

21 Q Okay. I want to see if I understand.

22 So you made this determination that your,
23 your tether of your harness was attached below the
24 vine --

25 A Yes, sir.

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1 Q -- right?
 2 A Yes, sir. Right here.
 3 Q And you wanted to move that strap, the
 4 tree strap --
 5 A Right here.
 6 Q -- above the vine; right?
 7 A Just -- yeah. Remember, it's this far. I
 8 was going to pull the stand up on this side here. You
 9 know, you can turn it a little bit, but this side
 10 here, and I'm looking straight across.
 11 Q Okay. But just follow. We're breaking
 12 this down.
 13 So you got up to the, to your -- so you,
 14 you brought the tree stand up close to the vine;
 15 right?
 16 A I was attempting to get up close to the
 17 vine.
 18 Q Okay. And in order to do that, you
 19 decided you were going to move your tree strap from
 20 your harness, and you were going to detach it from the
 21 tree, and move it above the --
 22 A The thing is --
 23 Q -- vine?
 24 A -- either that, or I pull the stand up,
 25 and my tree strap is down here behind -- below me.

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1 everything you had read, all of the instructions that
 2 told you never to, to remove the harness; right?
 3 A Uh-huh.
 4 Q Is that a "yes"?
 5 A Yes.
 6 Q And all the videos that you watched, they
 7 told you not to remove your harness; right?
 8 A Years before, yes.
 9 Q And so you knew that when you -- you told
 10 me what you were thinking at that time, that you
 11 didn't think about it, but you knew, because you had
 12 been taught that --
 13 A Uh-huh.
 14 Q -- that that was contrary to what the
 15 instructions were telling you to do; right?
 16 A Did I know it? At the time I didn't think
 17 about it.
 18 Q Okay, but not thinking about it is not
 19 different from doing it.
 20 If you had thought about it, you knew it,
 21 because you had already read it repeatedly; right?
 22 A Okay.
 23 MR. SPINELLI: Objection to form.
 24 BY MR. SUTTON:
 25 Q Is that true?

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1 Q Or you could have used a different tree;
 2 right?
 3 You could have used a different a tree;
 4 right?
 5 A Go to a different tree?
 6 Q You could have elected to use a different
 7 tree; right?
 8 A Not there.
 9 Q Okay.
 10 A That's why I took that tree. It was a
 11 straight one.
 12 You, your people took pictures of the
 13 whole area there that'll see -- you can see what the
 14 trees look like.
 15 Q Okay.
 16 A Remember?
 17 Q Okay. The question is, when you removed
 18 your harness, you knew you were acting contrary to the
 19 safe use of this stand; right?
 20 A I didn't look at it that way. I felt that
 21 stand could hold me for a minute or two while I
 22 reattach.
 23 Q I guess you misunderstood.
 24 A I'm telling you what I thought.
 25 Q I, I, I understand, but I'm just saying

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1 MR. SPINELLI: Go ahead and answer.
 2 BY MR. SUTTON:
 3 Q Isn't that true?
 4 A Yep. Yeah.
 5 Q Okay. Now, you reached up to, to move
 6 that strap up, and you were standing on the platform
 7 right?
 8 A I'm standing on the platform.
 9 Q Right.
 10 A I'm sorry. I wasn't. I was sitting
 11 actually.
 12 Here's the vi- -- here's the vine right
 13 here -- okay -- and I'm like this; all right.
 14 I'm moving it. Here's my strap. I undid
 15 the strap to put it here, pull up the stand a little
 16 higher; okay?
 17 Does that make sense to you?
 18 Q Yeah. This is what I'm trying --
 19 A Okay.
 20 Q -- to get --
 21 A All right.
 22 Q Because you're showing me --
 23 A But when I stood up, when I stood up,
 24 that's the last thing I remember.
 25 Q And that -- this --